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10/509,716

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Hubert Verelst

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MICHAEL BEST & FRIEDRICH LLP
100 E WISCONSIN AVENUE
Suite 3300
MILWAUKEE, WI 53202

EXAMINER

GRAHAM, GARY K

ART UNIT

PAPER NUMBER

3727

MAIL DATE

DELIVERY MODE

04/01/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|---------------------------------------|--|
| Office Action Summary | Application No. 10/509,716 | Applicant(s) VERELST ET AL. | |
| | Examiner Gary K. Graham | Art Unit 3727 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 17 and 18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 and 19-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20041001, 20070831, 20080619, 20081106</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: Reference numeral 10. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-16 and 19-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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The following is exemplary only. The claims contain numerous instances of a lack of antecedent basis. All the claims should carefully be reviewed for all such occurrences in addition to those pointed out below.

In claims 1 and 25, line 8, setting forth that the walls are “standing on the band surfaces” appears inaccurate. It does not appear that the walls of the adapter contact the band surfaces of the supporting element. Therefore, it is not clear how they “stand” on such surfaces. Clarification is requested.

In claim 3, line 3, there is no antecedent basis for “the articulation means”.

In claim 4, line 4, there is no antecedent basis for “the pendulum axis”.

In claim 5, line 3, there is no antecedent basis for “the U-legs”.

In claim 6, line 4, there is no antecedent basis for “the connecting piece”.

In claim 10, line 1, there is no antecedent basis for “the articulation means”.

In claim 11, line 1, there is no antecedent basis for “the articulation means”. In line 2, there is no antecedent basis for “the bearing receptacles”. In line 5, there is no antecedent basis for “the respective articulated bolt”.

In claim 19, line 2, there is no antecedent basis for “the connecting piece”

In claim 22, line 2, there is no antecedent basis for “collar-like projection”.

In claim 23, line 2, there is no antecedent basis for “the extension”.

In claim 24, line 2, there is no antecedent basis for “the extension”.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 26 is rejected under 35 U.S.C. 102(b) as being anticipated by Maiocco (US patent 4,308,635).

The patent to Maiocco discloses the invention, an adapter, as is claimed. Maiocco discloses a wiper lever (fig.7) wherein an adapter (11, fig. 1) is provided to connect a wiper blade, articulating part (46) thereof is shown, to a connecting piece (58) of a wiper arm (56). The adapter is U-shaped in cross-section, at least in sections. The U-legs (16,38) of the adapter have bearing receptacles (40) for articulation bolt (54) of the wiper blade. The receptacles are open-edged via a narrowing assembly channel terminating on a free end of the U-legs. The adapter is provided with a pair of elastically deflectable limit stop shoulders on detents (28). The stop shoulders are moveable transverse to an extension plane of the U-legs via flexible lip (24). The stop shoulders can cooperate with counter-limit stop shoulders formed in tubular projections (60) on the connecting piece (58).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1, 19, 22 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maiocco (US patent 4,308,635) in view of Wittwer et al (US patent 3,899,800).

The patent to Maiocco discloses all of the above recited subject matter with the exception of the wiper lever including an elastic, band-like, elongated, curved supporting element provided between the articulated part and a rubber wiper strip.

The patent to Wittwer discloses a wiper blade wherein an elastic, band-like, elongated, curved supporting element (36) is provided between the articulated part (12) and a wiper strip (48).

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It would have been obvious to one of skill in the art to provide the wiper blade of Maiocco with a wiper strip thereon supported by an elastic, band-like, elongated, curved supporting element, as clearly suggested by Wittwer, to enable effective wiping of a windshield surface by the Maiocco wiper lever.

With respect to claims 1 and 25, while Wittwer does not disclose the wiper strip as being made of rubber, to do so would have been obvious to one of skill in the art. The making of wiper strips of both rubber and plastics is notoriously well known in the wiper arts. It would have been obvious to one of skill in the art to make the wiping strip of the modified Maiocco wiper lever of rubber, as a mere choice of well known materials, to enable effective cleaning and wiping of the windshield surface.

With respect to claims 19 and 22, the edge of tubular projection (60), which is a collar-like projection on the connecting piece (58), will act as a guiding means to cooperate with an inner surface of the adapter, which is part of the wiper blade as claimed. The side of the projection acts as a supporting shoulder to point toward a free end of the U-leg.

Claims 2-4, 8-12, 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maiocco (US patent 4,308,635) in view of Wittwer et al (US patent 3,899,800) as applied to claim 1 above, and further in view of Sharp et al (US patent 4,120,069).

The patents to Maiocco and Wittwer disclose all of the above recited subject matter with the exception of the U-legs of the adapter being provided on the outside of the walls of the articulated part.

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The patent to Sharp discloses provision of an adapter (4) to couple a wiper arm (1) to an articulated part (18) of a wiper blade. The adapter is substantially U-shaped. The walls of the adapter are provided on the outside of the walls of the articulated part.

It would have been obvious to one of skill in the art to shape the adapter of the modified Maiocco lever to provide the walls thereof as engaging on the outside of the articulated part, as clearly suggested by Sharp, to enhance the stability of the connection joint. Sharp clearly suggests that the articulated part can be received within the adapter instead of the other way around. Such could readily be employed by Maiocco to further space the contacting points with the articulated part and thus enhance stability.

With respect to claim 10, modification of the adapter as suggested by Sharp would require a bolt extending from each outer side of the articulated part to enable connection for engagement by the adapter.

Allowable Subject Matter

Claims 5-7, 13-16, 20 and 21 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary K. Graham whose telephone number is 571-272-1274. The examiner can normally be reached on Tuesday to Friday (7:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica S. Carter can be reached on 571-272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gary K Graham/
Primary Examiner, Art Unit 3727

GKG
28 March 2009